

BEFORE THE SECURITIES COMMISSIONER
OF THE STATE OF KANSAS

In re:

**CROSS BORDER TRADING BY
CERTAIN CANADIAN BROKER-
DEALERS WITHOUT REGISTRATION.**



Docket No. 2001E035

ORDER

WHEREAS, the Kansas Securities Commissioner ("Commissioner") is charged with the administration of the Kansas Securities Act, K.S.A. 17-1252 et seq. and regulations adopted thereunder;

WHEREAS, K.S.A. 17-1270(f) provides, in part, that "[t]he Commissioner may from time to time make, amend, and revoke such . . . orders and forms as may be necessary to carry out the provisions of this act . . .";

WHEREAS, the Commissioner has determined that it is consistent with the public interest that certain Canadian broker-dealers and their sales agents be allowed to transact limited securities transactions in this state without registration, particularly with (1) Canadian residents who are temporarily present in this state, or (2) holders of or contributors to self-directed, tax advantaged Canadian retirement plans;

WHEREAS, the Canadian government and provinces have or intend to provide reciprocal exemptions for United States broker-dealers doing business in Canada with U.S. citizens; and

WHEREAS, the North American Securities Administrators Association ("NASAA") Trading and Exchanges Project Group has recommended a uniform implementation of these procedures, and the Commissioner in prescribing orders and

administering the Act deems it of paramount importance to effectuate the policy of achieving maximum uniformity among the states with respect to registration requirements;

IT IS, THEREFORE BY THE COMMISSIONER ORDERED that:

A person who is a resident in Canada and has no office or other physical presence in this state, shall not be deemed to be a broker-dealer engaged in business in this state within the terms of K.S.A. 17-1254, provided that person complies with the following conditions:

- a) Only effects or attempts to effect transactions in securities:
 - 1. With or through the issuers of the securities involved in the transactions, broker-dealers, banks, saving institutions, trust companies, insurance companies, investment companies (as defined in the Investment Company Act of 1940), pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees;
 - 2. With or for a person from Canada who is temporarily present in this state, with whom the Canadian person had a bona fide business-client relationship before the person entered this state; or
 - 3. With or for a person whose transactions are in a self-directed tax advantaged retirement plan in Canada of which the person is the holder or contributor; and
- b) Is registered with or a member of a self-regulatory organization, stock exchange in Canada or the Bureau des services financiers;

- c) Maintains his provincial or territorial registration and his registration with or membership in a self-regulatory organization, stock exchange or the Bureau des services financiers in good standing;
- d) Discloses to his clients in this state that he is not subject to the full regulatory requirements of the Kansas Securities Act, K.S.A. 17-1252 et seq.; and,
- e) Is not in violation of K.S.A. 17-1253 and all rules promulgated thereunder.

IT IS FURTHER ORDERED that a sales agent who represents a Canadian broker-dealer meeting the conditions described above shall not be deemed to be an agent engaged in business in this state within the terms of K.S.A. 17-1254.

IT IS FURTHER ORDERED that, solely for purposes of K.S.A. 17-1255, transactions by Canadian broker-dealers and their sales agents as described above shall be deemed not to involve the offer or sale of a security in Kansas.

IT IS FURTHER ORDERED that the Order issued September 30, 1996, Docket No. 97E008 is hereby VACATED.

BY THE COMMISSIONER IT IS SO ORDERED.

Entered at Topeka, Kansas, this 4 day of April, 2001.



David R. Brant

David R. Brant
Securities Commissioner
State of Kansas